

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**MISSISSIPPI STATE CONFERENCE OF THE
NAACP, et al.**

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:11-cv-159-TSL-MTP

HALEY BARBOUR, et al.

DEFENDANTS

AND

SENATOR TERRY C. BURTON

MOVANT/INTERVENOR

EXPEDITED CONSIDERATION REQUESTED

**MOTION TO INTERVENE
BY SENATOR TERRY BURTON**

State Senator Terry C. Burton moves this Court for leave to intervene in this action as a matter of right, pursuant to Fed. R. Civ. P. 24(a)(2). Alternatively, Sen. Burton moves for leave to intervene by permission, pursuant to Fed. R. Civ. P. 24(b)(1)(b). In support of his motion, Sen. Burton shows the following facts and arguments:

1.

State Senator Terry C. Burton is a qualified elector of Newton County, Mississippi and a duly elected member of the Mississippi State Senate, having served continuously in that body since 1992. Senator Burton currently serves as Chairman of the Senate Elections Committee (the “Senate Committee”), and as Chairman of the Standing Joint Legislative Committee on Reapportionment and Redistricting (the “Joint Committee”). *See* Affidavit of Senator Terry C. Burton, attached hereto as Exhibit “A” and incorporated by reference.

2.

Senator Burton seeks leave to intervene in this case in order to protect his interest and the interests of other citizens of the State of Mississippi similarly situated with respect to the adoption of the 2011 Senate Redistricting Plan and Map contained in Joint Resolution 201 of the 2011 Regular Session of the Mississippi Legislature (the “Senate Plan”), as the Senate Plan was adopted by majority vote of the Mississippi State Senate on March 10, 2011, and by majority vote of the Mississippi State House of Representatives on March 15, 2011. *See* Certified Copies of both the Senate and House roll call votes and the associated approved “Senate Plan” passed as Joint Resolution 201, including amendments, attached hereto as Exhibit “B” and Exhibit “C” respectively, and incorporated by reference.

3.

Senator Burton also seeks leave to intervene to protect his interest and the interests of other citizens of the State of Mississippi similarly situated with respect to the timely conducting of the State of Mississippi’s legislative elections in 2011, utilizing the Senate Plan. Senator Burton thus has an interest in the subject matter of this action, and is so situated that disposing of this action will as a practical matter impair or impede his ability to protect his interest, and the interests of other citizens similarly situated, which are not being asserted or adequately pursued by any other party to this litigation.

4.

In his capacity as Chairman of the Senate Committee and as Chairman of the Joint Committee, Sen. Burton has been directly and intimately involved in all aspects of

the development, promulgation, consideration and adoption of the Senate Plan by the two chambers of the Mississippi Legislature. As an individual citizen, as a State Senator, and as Chairman of the Senate Committee and of the Joint Committee, Sen. Burton is directly interested in protecting the work of the Mississippi State Senate, which diligently completed its work by publishing the Senate Plan and saw the Senate Plan adopted by overwhelming majority votes in both chambers of the Legislature, all with a view to holding timely 2011 elections for the State Senate as scheduled by the statutory requirements of the State of Mississippi, under the auspices of the Senate Plan.

5.

The Mississippi Legislature adjourned finally, or *sine die*, from the 2011 Regular Session on Thursday, April 7, 2011. As of that date, both the State Senate and the State House of Representatives were engaged in procedural efforts to keep alive legislative redistricting negotiations. Not until the *sine die* adjournment of the chambers on April 7 was it apparent that the Legislature would not be able to adopt a joint resolution of redistricting as required by Sec. 254 of the Mississippi Constitution of 1890, and as Chairman of the Joint Committee, Sen. Burton was at work as late as that day to arrive at an agreement on a joint resolution. This motion is being filed only three (3) business days following the *sine die* adjournment of the Legislature.

6.

Moreover, Sen. Burton has claims or defenses that share common questions of law and fact with this action.

7.

Senator Burton respectfully requests that this Court allow him to intervene in this case to protect his interests and the interests of other citizens similarly situated, and in order that he may assert his defenses and raise his claims by filing his Answer and Defenses and Counterclaim for Declaratory Judgment, in substantially the form attached hereto as Exhibit "D."

8.

Pursuant to L.U.Civ.R. 7(b)(8), the movant requests that the Court expedite the hearing of this motion, in order to allow Sen. Burton's full participation in the proceedings on the docket of this Court.

9.

Pursuant to L.U.Civ.R. 7(b)(10), counsel for Sen. Burton is conferring with counsel for the other parties in this case to determine whether any opposes this motion to intervene, but no response from counsel for other parties has yet been received. As a consequence, counsel is not in a position to represent to the Court that this motion is unopposed.

WHEREFORE, PREMISES CONSIDERED, Senator Terry C. Burton respectfully requests that this Court grant his motion to intervene as of right, or, alternatively, by permission, and that consideration of this matter be expedited in view of the pending matters before the Court.

Respectfully submitted, this the 12th day of April, 2011.

SENATOR TERRY C. BURTON

BY: /s R. Andrew Taggart, Jr.

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CERTIFICATE OF SERVICE

I, R. Andrew Taggart, Jr., one of the attorneys for Senator Terry C. Burton, do hereby certify that I have electronically filed the foregoing with the Clerk of Court using the ECF system which sent notice of such filing to all attorneys of record in this matter.

THIS, the 12th day of April, 2011.

/s R. Andrew Taggart, Jr.
R. Andrew Taggart, Jr.